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(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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Short Title: Mercury Switch Amendments.

(Public)

Sponsors: .

Referred to:

A BILL TO BE ENTITLED
AN ACT TO AMEND THE STATUTES GOVERNING THE REMOVAL,
COLLECTION, AND RECOVERY OF MERCURY SWITCHES FROM
CERTAIN MOTOR VEHICLES, AS RECOMMENDED BY THE
ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-310.50 reads as rewritten:

"§ 130A-310.50. Definitions.

As used in this Part:

- (1) "Capture rate" means the ~~annual~~ removal, collection, and recovery of mercury ~~switches~~ switches, as required by this Part, expressed as a ~~percentage~~ ratio of the number of switches removed, divided by the total number of mercury switches available for removal from end-of-life ~~vehicles~~ vehicles, minus the number of switches that were inaccessible due to the condition of the vehicle.
- (1a) 'Destination facility' has the same meaning as in 40 Code of Federal Regulations § 273.9 (1 July 2006 Edition).
- (2) "End-of-life vehicle" means a vehicle that is sold, given, or otherwise conveyed to a vehicle recycler or scrap metal recycling facility for the purpose of recycling.
- (3) "Manufacturer" means a person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that is the last person in the production or assembly process of a new vehicle that utilizes mercury switches, or in the case of an imported vehicle, the importer or domestic distributor of the vehicle.
- (4) "Mercury minimization plan" means a plan for removing, collecting, and recovering mercury switches from end-of-life vehicles that is

prepared as provided in G.S. 130A-310.52 and implemented as provided in G.S. 130A-310.53.

(5) "Mercury switch" means each mercury-containing capsule, commonly known as a "bullet", that is part of a convenience light switch assembly installed in a vehicle.

(6) "Scrap metal recycling facility" means a fixed location where machinery and equipment are used to process scrap metal into specific grades of scrap metal for sale and whose primary product is scrap iron, scrap steel, or nonferrous metallic scrap.

(6a) 'Universal waste' has the same meaning as in 40 Code of Federal Regulations § 273.9 (1 July 2006 Edition).

(6b) 'Universal waste handler' has the same meaning as in 40 Code of Federal Regulations § 273.9 (1 July 2006 Edition).

(7) "Vehicle" means any passenger automobile or passenger car, station wagon, truck, van, or sport utility vehicle with a gross vehicle weight rating of less than 12,000 pounds.

(8) "Vehicle recycler" means an individual or entity engaged in the business of acquiring, dismantling, or destroying six or more end-of-life vehicles in a calendar year for the primary purpose of resale of parts of the vehicle."

SECTION 2. G.S. 130A-310.52 reads as rewritten:

"§ 130A-310.52. Mercury minimization plan.

(a) The Department shall develop and administer a mercury minimization plan to annually achieve the goal of having ~~a~~an annual capture rate of at least ninety percent (90%). In preparing the plan, the Department shall consult with manufacturers of vehicles, who shall participate in the development of the plan on an advisory basis. To the extent practicable, the mercury minimization plan shall utilize the currently available end-of-life vehicle recycling infrastructure. To the extent adequate, affordable, and environmentally sound end-of-life vehicle recycling infrastructure is unavailable, the plan shall provide for the development of this infrastructure. Nothing in this Part shall preclude the Department from approving a program sponsored by the manufacturers for the collection and disposal of mercury switches taken from vehicle recyclers and scrap metal recycling facilities.

(b) A plan developed under subsection (a) of this section shall include the following:

(1) A compilation of the make, model, and year of any vehicle that was sold or offered for sale by the vehicle manufacturer and contains one or more mercury switches and a description and the location of each mercury switch in the vehicle. A vehicle manufacturer shall report to the Department the information needed to make the compilation.

(2) A description of all safe and environmentally sound methods for removal of mercury switches from end-of-life vehicles. A vehicle manufacturer shall report to the Department the information needed to make the description.

- 1 (3) A presumption that if the manufacturer does not know or is uncertain
2 as to whether or not a switch contains mercury, the switch does contain
3 mercury.
- 4 (4) A system to mark end-of-life vehicles that are to be shredded or
5 crushed to indicate the presence or absence of a mercury switch.
- 6 (5) Educational materials to assist a vehicle recycler or a scrap metal
7 recycling facility in undertaking a safe and environmentally sound
8 method for the removal of the mercury switches from end-of-life
9 vehicles. The materials shall include information on hazards related to
10 mercury and on the proper handling of ~~mercury~~ mercury switches by a
11 vehicle recycler or scrap metal recycling facility during removal,
12 collection, storage, and preparation for transport of the switches to a
13 universal waste handler or destination facility subject to the
14 requirements of 40 Code of Federal Regulations Part 273 (1 July 2006
15 Edition).
- 16 (6) A method for storage and ~~disposal-handling~~ of the mercury switches,
17 switches removed by vehicle recyclers and scrap metal recycling
18 facilities in accordance with the rules adopted by the Commission
19 concerning universal waste, including packaging and shipping of
20 mercury switches to a universal waste handler or destination facility
21 subject to the requirements of 40 Code of Federal Regulations Part 273
22 (1 July 2006 Edition).. ~~permitted recycling, storage, or disposal~~
23 ~~facilities. To the extent adequate, affordable, and environmentally~~
24 ~~sound mercury switch disposal technology is unavailable, a method for~~
25 ~~the temporary storage of mercury switches."~~

26 **SECTION 3.** G.S. 130A-310.53 reads as rewritten:

27 **"§ 130A-310.53. Removal of mercury switches from end-of-life vehicles.**

28 (a) A vehicle recycler that conveys ownership of an end-of-life vehicle to a scrap
29 metal recycling facility shall remove all mercury switches identified in the mercury
30 minimization plan prior to delivery of the vehicle to the scrap metal recycling facility. If
31 a mercury switch is inaccessible, the fact that the mercury switch remains in the vehicle
32 shall be noted on the vehicle recycler's invoice.

33 (b) A scrap metal recycling facility that accepts an end-of-life vehicle that has not
34 been flattened, crushed, baled, or shredded and that contains mercury switches shall
35 remove the mercury switches before the end-of-life vehicle is flattened, crushed, baled,
36 or shredded unless the mercury switch is inaccessible.

37 (c) A mercury switch is inaccessible if, due to the condition of the vehicle, the
38 switch cannot be removed in accordance with the mercury minimization plan and
39 removal of the switch would significantly increase the risk of a release of mercury into
40 the environment.

41 (d) A vehicle recycler or scrap metal recycling facility that removes mercury
42 switches pursuant to subsection (a) or (b) of this section ~~shall make quarterly reports to~~
43 ~~the Department on the following: shall, no later than 1 March, make an annual report to~~
44 the Department on all of the following for the previous calendar year:

- 1 (1) The number of vehicles ~~that it processed for recycling~~that it processed for recycling that
2 contained mercury switches and the total number of switches
3 contained in those vehicles.
- 4 (2) The number of vehicles from which it removed a mercury switch by
5 ~~make~~make and the total number of switches removed from each
6 make.
- 7 (3) The number of vehicles for which it could not remove the mercury
8 switch because the switch was ~~inaccessible~~inaccessible and the total
9 number of inaccessible switches.
- 10 (4) The number of mercury switches sent to a universal waste handler or
11 destination facility subject to the requirements of 40 Code of Federal
12 Regulations Part 273 (1 July 2006 Edition).
- 13 (e) Mercury switches that are removed from end-of-life vehicles are considered
14 ~~'universal waste' as defined in 40 Code of Federal Regulations § 273.9 (1 July 2004~~
15 ~~Edition).~~ universal waste. Mercury switches that are removed from end-of-life vehicles
16 shall be collected, transported, treated, stored, disposed of, and otherwise handled in
17 accordance with rules adopted by the Commission governing universal waste and in
18 compliance with the requirements of 40 Code of Federal Regulations Part 273 (1 July
19 2006 Edition)."

20 **SECTION 4.** G.S. 130A-310.54 reads as rewritten:

21 **"§ 130A-310.54. Funds to implement plan.**

22 (a) The Mercury Pollution Prevention Account is established in the Department.
23 Revenue is credited to the Account from the certificate of title fee under G.S. 20-85.

24 (b) Revenue in the Mercury Pollution Prevention Account shall be used to
25 reimburse the Department and others for costs incurred in implementing the mercury
26 minimization plan. The reimbursable costs are:

27 (1) Five dollars (\$5.00) for each mercury switch ~~removed~~removed,
28 managed in accordance with the rules adopted by the Commission
29 concerning universal waste, and sent to a universal waste handler or
30 destination facility subject to the requirements of 40 Code of Federal
31 Regulations Part 273 (1 July 2006 Edition) by a vehicle recycler or
32 scrap metal recycling facility pursuant to this Article. Article,
33 including shipment through any manufacturer-sponsored collection
34 program for mercury switches that has been approved by the
35 Department.

36 (2) Costs incurred by the Department in administering the plan.

37 (c) ~~The Department shall reimburse vehicle recyclers and scrap metal recycling~~
38 ~~facilities based on the quarterly reports submitted under G.S. 130A-310.53. The~~
39 ~~Department may request any information needed to determine the accuracy of the~~
40 ~~reports.~~ Reimbursements to vehicle recyclers and scrap metal recycling facilities shall be
41 based on the number of mercury switches sent to other universal waste handlers or
42 destination facilities.

43 (d) A vehicle recycler or scrap metal recycling facility shall maintain and submit
44 documentation as required by the Department to substantiate the information included

1 in its annual reports. Supporting documentation for each annual report shall be kept for
2 three years from the last day of the calendar year covered by the report."

3 **SECTION 5.** G.S. 130A-310.55 reads as rewritten:

4 **"§ 130A-310.55. Violations of Article; enforcement.**

5 (a) It is unlawful for a person to do any of the following:

6 (1) Knowingly flatten, crush, bale, shred, or otherwise alter the condition
7 of a vehicle from which accessible mercury switches have not been
8 removed, in any manner that would prevent or significantly hinder the
9 removal of a mercury switch.

10 (2) Willfully fail to remove a mercury switch when the person is required
11 to do so.

12 (3) ~~Knowingly make a false report that a mercury switch has been~~
13 ~~removed from an end-of-life vehicle.~~

14 (4) ~~Obtain a mercury switch from another source and falsely report that it~~
15 ~~was removed from a vehicle processed for recycling.~~

16 (b) Any person who violates subsection (a) of this section shall be guilty of a
17 Class 1 misdemeanor and upon conviction shall be punished as provided in G.S. 14-3.

18 (c) It is unlawful for a person to do any of the following:

19 (1) Knowingly make a false report that a mercury switch has been
20 removed from an end-of-life vehicle.

21 (2) Obtain a mercury switch from another source and falsely report that it
22 was removed from a vehicle processed for recycling.

23 (d) Any person who violates subsection (c) of this section shall be guilty of a
24 Class 2 misdemeanor and upon conviction shall be punished as provided in
25 G.S. 130A-26.2.

26 (e) A violation of any provision of this Part, including subsections (a) and (c) of
27 this section and any rules adopted by the Commission governing universal waste, may
28 be enforced by an administrative or civil action ~~This Part may be enforced as provided~~
29 ~~in Part 2 of Article 1 of this Chapter."~~

30 **SECTION 6.** G.S. 130A-310.57 reads as rewritten:

31 **"§ 130A-310.57. Report on plan.**

32 The Department shall publish an annual report on the mercury minimization plan on
33 or before 1 November ~~4~~ based on its evaluation of annual reports submitted for the
34 previous calendar year and any information provided from an approved
35 manufacturer-sponsored collection program. The report shall include, at a minimum, all
36 of the following:

37 (1) A detailed description and documentation of the capture rate achieved.

38 (2) In the event that ~~a~~ an annual capture rate of at least ninety percent
39 (90%) is not ~~achieved~~, achieved annually, a description of additional
40 or alternative actions that may be implemented to improve the mercury
41 minimization plan and its implementation.

42 (3) The number of mercury switches collected, the number of end-of-life
43 vehicles containing mercury switches, the number of end-of-life

1 vehicles processed for recycling, and a description of how the mercury
2 switches were managed.

3 (4) A statement that details the costs required to implement the mercury
4 minimization plan."

5 **SECTION 7.** Section 3 of S.L. 2005-384 is rewritten to read:

6 "SECTION 3. The Commission for Health Services shall amend 15A
7 NCAC 13A .0119 to adopt rules governing the management of waste
8 mercury-containing ~~devices~~, devices as universal waste, as defined in the Final Rule
9 published on 5 August 2005 in the Federal Register, Volume 70, Number 150, Pages
10 45508 through 45522. ~~Notice of Proposed Rulemaking published on 12 June 2002 in the~~
11 ~~Federal Register, Volume 67, Number 113, Pages 40507 through 40528, as universal~~
12 ~~waste."~~

13 **SECTION 8.** This act becomes effective 1 January 2007. The first annual
14 report required by G.S. 130A-310.53(d) is due 1 March 2008. The first annual report
15 required by G.S. 130A-310.57 is due 1 November 2008. This act expires on 31
16 December 2017.